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UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

In re application of
Satoru Miyashita et al
Serial No. 09/901,097
Filed: July 10, 2001
For: METHOD OF MANUFACTURING ORGANIC EL ELEMENT, ORGANIC EL ELEMENT, AND ORGANIC EL DISPLAY DEVICE

DECISION ON PETITION

This is a decision on the PETITION FOR CONSOLIDATION OF THREE INTERFERENCES, filed February 27, 2002. Petitioner has submitted a Request for Declaration of Interference in the present application requesting that an Interference be declared between the present application and U.S. Patent 6,087,196 to Sturm et al. A Request for Declaration of Interference with U.S. Patent 6,087,196 to Sturm et al has also been submitted in commonly owned applications, Serial Numbers 09/901,095 and 09/901,126. Petitioner requests that these three requested interference proceedings be consolidated, and that a single interference be declared between the three commonly owned applications and U.S. Patent 6,087,196 to Sturm et al.

DECISION

37 CFR § 1.606 requires that the "application must contain, or be amended to contain, at least one claim that is patentable over the prior art and corresponds to the count". A review of the file history of the present application, however, shows that the present application has not yet been acted upon by the examiner. Thus, the examiner has not determined if at least one of the applicant's claims to that invention are patentable to the applicant as required by MPEP 2306.

The present application has not yet been examined. Thus, it is premature to speculate on whether or not there exists a potential interference between the present application and U.S. Patent 6,087,196 to Sturm et al, much less on whether to include the two other

commonly owned applications in this potential interference. With this petition, applicants have notified the USPTO of the two commonly owned applications. If it is later determined by the examiner that a potential interference exists between the present application and U.S. Patent 6,087,196 to Sturm et al, the examiner will also determine if the two other commonly owned applications should be included in this potential interference. Note that while an examiner may suggest that an interference be declared, only the Board of Patent Appeals and Interferences may actually declare an interference. See MPEP 2309, 2309.2, 2311.

The petition is **DISMISSED**.

The present application will be forwarded to the examiner, wherein examination of the application shall be conducted with special dispatch as required by 37 CFR § 1.607(b).

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